



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 30, 1993

Ms. Barbara E. Elliott
City Attorney
City of Bedford
P.O. Box 157
Bedford, Texas 76095-0157

OR93-738

Dear Ms. Elliott:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), Government Code chapter 552 (former article 6252-17a, V.T.C.S.¹). We assigned your request ID# 21604.

The City of Bedford has received a request for a certain affidavit. Specifically, the requestor seeks "a copy of the Affidavit supporting a Search and Arrest Warrant issued at 3:30 p.m. on July 1, 1993 by Magistrate Carter Hampton of Bedford authorizing the search of a residence at 2036 Spicewood Drive in Bedford." You have submitted the requested information to us for review and seek to withhold it under sections 552.103(a) and 552.108 of the act.

Section 18.01 of the Code of Criminal Procedure provides, in pertinent part:

A sworn affidavit setting forth substantial facts establishing probable cause shall be filed in every instance in which a search warrant is requested. The affidavit is public information if executed.

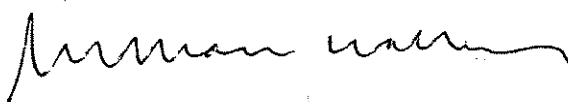
Crim. Proc. Code § 18.01(b). The act's exceptions, as a general rule, do not apply to information expressly made public by other statutes. Open Records Decision No. 525 (1989). As the information at issue here is specifically made public by section 18.01 of

¹We note that the Seventy-Third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

the Code of Criminal Procedure, it may not be excepted from required public disclosure under sections 552.103(a) and 552.108 of the act and must be released in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'William Walker', with a stylized, flowing script.

William Walker
Assistant Attorney General
Open Government Section

WMW/GCK/rho

Ref.: ID# 21604

cc: Mr. Brett Boone
4700 Airport Freeway, Suite A
Fort Worth, Texas 76117